



Law Society House, 179 Ann Street, Brisbane Qld 4000, Australia
GPO Box 1795, Brisbane Qld 4001, Australia
Telephone: (07) 3221 1111

Office of the President

8 June 2017

Our ref (NDC/ CLC)

Acting Committee Secretary
Legal Affairs and Community Safety Committee
Parliament House
George Street
Brisbane QLD 4000

By email: lacsc@parliament.qld.gov.au

Dear Acting Committee Secretary

Corrective Services (No Body, No Parole) Amendment Bill 2017

Thank you for the opportunity to provide comments on the Corrective Services (No Body, No Parole) Amendment Bill 2017. The Queensland Law Society (QLS) appreciates being consulted on this important legislation.

QLS is the peak professional body for the State's legal practitioners. We lead a profession of nearly 11,000 members throughout Queensland. QLS is comprised of several specialist committees who provide policy advice to the QLS Council on law reform and areas of concern to the profession. This response has been compiled with the assistance of the Criminal Law Committee who have substantial expertise and practice in this area.

The Society opposes the introduction of this Bill. In our view, there are a number of inherent flaws in the proposed legislation, including considerable pragmatic obstacles that, in our view, will limit its success. We raise the following specific concerns:

Circumstances where compliance is not possible

The Bill requires the parole board to refuse to grant an application for parole, unless the board is satisfied the prisoner has cooperated satisfactorily in identifying the victim's location. However, there are numerous circumstances within which it would not be possible for an offender to provide accurate information about the victim's location.

There is a real possibility that a person who has maintained their innocence, and is in fact innocent despite having been convicted, would be detained in prison indefinitely as a result of this legislative reform. The well-known Lindy Chamberlain case, whereby Ms Chamberlain was wrongly found guilty of murdering her daughter, illustrates the possibility of this devastating mistake.

Similarly, in circumstances where an offender is not aware of the location of a body, it would not be possible to cooperate. Natural events, including floods, rain, changes in topography, as

QLS Submission on the Corrective Services (No Body, No Parole) Amendment Bill 2017

well as where a body has been disposed of at sea, would prevent a convicted person from providing accurate information. The practical reality of Queensland's environment means that these events would not be unusual.

Further, the Society is concerned that the requirement to cooperate in locating a victim could compel a person to "make up" information, to give the appearance of cooperation.

Public policy considerations

There are strong public policy interests against the introduction of this legislative reform.

If the issue of cooperation were extended through further legislative reform, it could include a requirement for other forms of cooperation in order to be granted parole, for example, implicating others or providing information on the whereabouts of property or money taken as part of an offence.

This type of legislative reform contradicts fundamental legislative principles, in particular, those set out in section 4(3) of the *Legislative Standards Act 1992*, as it fails to protect against self-incrimination and imposes obligations retrospectively.

Parole decisions

While the cooperation of offenders in an investigation is important, cooperation is not necessarily reflective of the threat the offender poses to the community. Decisions around parole should more appropriately be determined following an assessment of patterns of offending, likelihood of recidivism, compliance with previous conditions of release, risk posed to the community and medical, psychological, behavioural or risk assessment reports, as set out in current legislation and policy.

The Society acknowledges that withholding information about the location of a victim can prolong suffering for families. However, in the Society's view, the proposed legislation would not be an effective or appropriate remedy.

If you have any queries regarding the contents of this letter, please do not hesitate to contact our Policy Solicitor,

Yours faithfully



Christine Smyth
President